

Combating Fraud:

A program of the Massachusetts
Board of Registration of
Chiropractors

Thursday, February 5th, 2004

Lawrence Public Library
Lawrence, MA

Moderator

- Anne L. Collins, Director,
Division of Professional Licensure

Agenda:

- Introduction
- Panel Presentations

What are the Issues?

What are possible Solutions?

- Open discussions/ Public comment
- Future Action Plan
- New Licentiate Presentation

(MA Board of Chiropractic 12:20-1:10pm)

Speakers

- Thomas R. De Vita, D.C., Chair,
MA Board of Registration of Chiropractors
- Dan Johnston
Executive Director, Insurance Fraud Bureau
President, Automobile Insurance Bureau
- Eliot Green, Esq.,
Attorney General's Insurance & Unemployment
Division

Speakers

- George Weber, Esq., Chief Prosecutor,
Division of Professional Licensure
- State Senator Susan Tucker
- Representative Barry Finegold

FRAUD:

“ a deliberate deception perpetrated
for unlawful or unfair gain”

players

- Health care providers (DC's, MD's, PT's, etc)
- Health care facility owners
- Patients
- Runners
- Attorneys
- Auto insurers
- Industry watchdogs (AIB)
- State professional associations (MCS)
- State regulators (DPL, BoR, DoI, etc)
- Law enforcement (Police, DA, State AG, IFB, etc)
- State Legislature

Massachusetts Board of Registration of Chiropractors

Dr. De Vita

Massachusetts Board of Registration of Chiropractors

Thomas R. De Vita, D.C.

Wayne A. Comeau, D.C.

David N. Taylor, D.C.

Joseph M. Boyle, D.C.

Edward J. Barowsky, D.C.

Kirk J. Shilts, D.C.

Lisa A. Grant, Esq.

Functions of the Licensing Board

- Examine candidates for licensure
- Establish minimal standards of practice
- Protect the health and welfare of the public
- Investigate and adjudicate public complaints
- Protect consumer's rights to make an informed choice about healthcare needs

Combating Fraud: What are the Issues?

False Claims

False Injuries

Improper Services

Overutilization of Services

Improper Solicitations

False Claims

- Outright fabricated insurance claim
 - Phantom patient(s)
 - Phantom accident
 - Phantom dates of service
 - Phantom procedures performed

False Injuries

- MVA injuries are often neuro-musculoskeletal (NMS); chiropractors are highly trained in evaluating these types of injuries
- Nationally, 33% of all motor vehicle related injuries are treated by Chiropractors
- Doctors must assess the extent of a patient's complaint by means of a thorough history and appropriate examination
- Exam procedures should typically include provocative maneuvers and tests for malingering

Possible Red Flags:

“I wasn’t injured, but my lawyer told me to come here”

“I finished seeing Dr. X, but I didn’t get enough treatment”

“Even after treating for months, my pain hasn’t changed at all since the accident”

Multiple occupants of same MVA all claiming nearly identical injuries

Numerous inconsistencies or positive malingering findings on examination

Improper Services

- Attorney acting to “triage” client through multiple health providers to exceed tort threshold
- Excessive use of Advanced Technologies, beyond what a similarly injured “cash” patient would require
- Adjunctive service not necessary relative to type of injury

Overutilization of Services

- # visits exceeds typical care parameters for that condition/injury
- Appropriate adjunctive services not applied in decreasing frequency as would be expected
- Care not predicated on any nor valid Outcome Measures

Improper Solicitations

- Improper business practices
 - Paying cash or in kind to patients
 - Self referrals
 - Exclusive referrals
 - Bait and switch type advertising
- “Runners”

Runner :

“a person who, for pecuniary benefit, whether directly or indirectly, or in cash or in kind, procures or attempts to procure a client, patient or customer at the direction of, request of, or in cooperation with a provider who’s purpose is to seek or obtain benefits under contract of insurance or assert a claim against an insured or insurance carrier for providing services to the client, patient or customer”

Examples of relationships where improper referrals can occur:

- Provider/ Patient
- Provider/ Attorney
- Provider/ other providers (DC's, PT's, MD's, etc)
- Provider/ Provider-owned rehab. facility
- Provider/ Provider's employees or other surrogates

Combating Fraud: Solutions

Educational Programs

Practice Instructions

Increased Coordination with Law
Enforcement

BoR Legislative Goals

Educational Programs

- BoR recommendation that every DC attend our 12-hour CE seminar on Recordkeeping & Practice Compliance
- BoR website outlining what comprises a proper Practice Compliance Plan (*near completed*)
- Combating Fraud program planned for additional Massachusetts communities this year
- Mandatory New Licentiate Presentation

Practice Instructions

- BoR recommendation that every DC office located in statistical ‘target zones’ display the Insurance Fraud Bureau’s Reward Notice
- When confronted with a patient who is *likely* staging a false injury;
DECLINE TO ACCEPT THEM INTO YOUR PRACTICE!

Practice Instructions

- When confronted with a patient who is *clearly* staging a false injury for ins. purposes;
YOU MUST DISCLOSE THIS TO AN APPROPRIATE AUTHORITY!!
 - Insurance Fraud Bureau (800) 32- FRAUD
 - Attorney General's Office (617) 727-2200 x 3256
 - Local District Attorney's Office (*Lawrence area*)
 - Middlesex (617) 679-6500
 - Worcester (508) 755-8601
 - Essex (978) 745-6610

Coordination with Law Enforcement

- BoR intent to refer “flagrant” violators of healthcare Fraud over to Atty. General’s office for possible criminal prosecution under new Felony Fraud Law
- Share BoR statistical data with IFB and other enforcement agencies

Legislative Goal

The BoR has been and remains proactive in supporting the legislative and administrative branches of government in their efforts to promote effective legislation to combat health care fraud

Insurance Fraud Bureau Auto Insurers Bureau

Dan Johnston

Today's Presentation Will Focus On...

- Who is the Fraud Bureau?
- What is the Fraud problem in Lawrence?
- What is the DCD?
- Some troubling data from the DCD

Insurance Fraud Bureau

IFB

An investigative organization created by statute to collect, investigate, and refer for prosecution all matters of insurance fraud in the commonwealth

Combating Fraud: What are the Issues?

Lets examine first the apparent extent
of the fraud problem in Lawrence

WHY ARE RATES SO HIGH?

- Statewide claims paid per car \$714
- Lawrence claims paid per car **\$2,061**

2002 Reported Pure Premiums (BI, PIP, PD, COMP, COLL)

WHY ARE RATES SO HIGH?

- Statewide # of claims as a percentage of policyholders 28%
- Lawrence # of claims as a percentage of policyholders 66%

WHY ARE RATES SO HIGH?

- Lawrence's accident rate is 1.5 X state avg
but...
 - PIP (no-fault) claims are 4.9 X state avg.
 - BI Liability claims are 4.9 X state avg.

2002 Reported Frequency Indices (PD, PIP, BI)

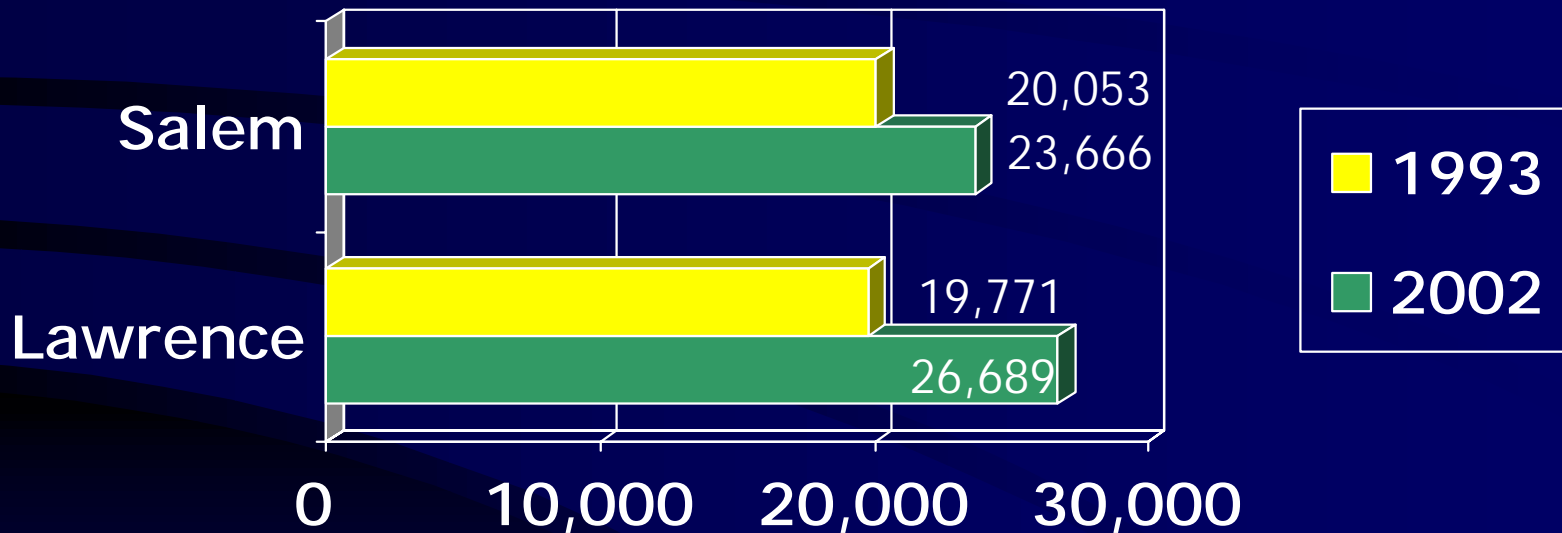
WHY ARE RATES SO HIGH?

- For every **100** accidents in the state
43 injuries are reported!
- For every **100** accidents in Lawrence
141 injuries are reported!

2002 Number of Claims Per 100 Accidents (PIP)

Compare 2 Cities- Similar Population Size

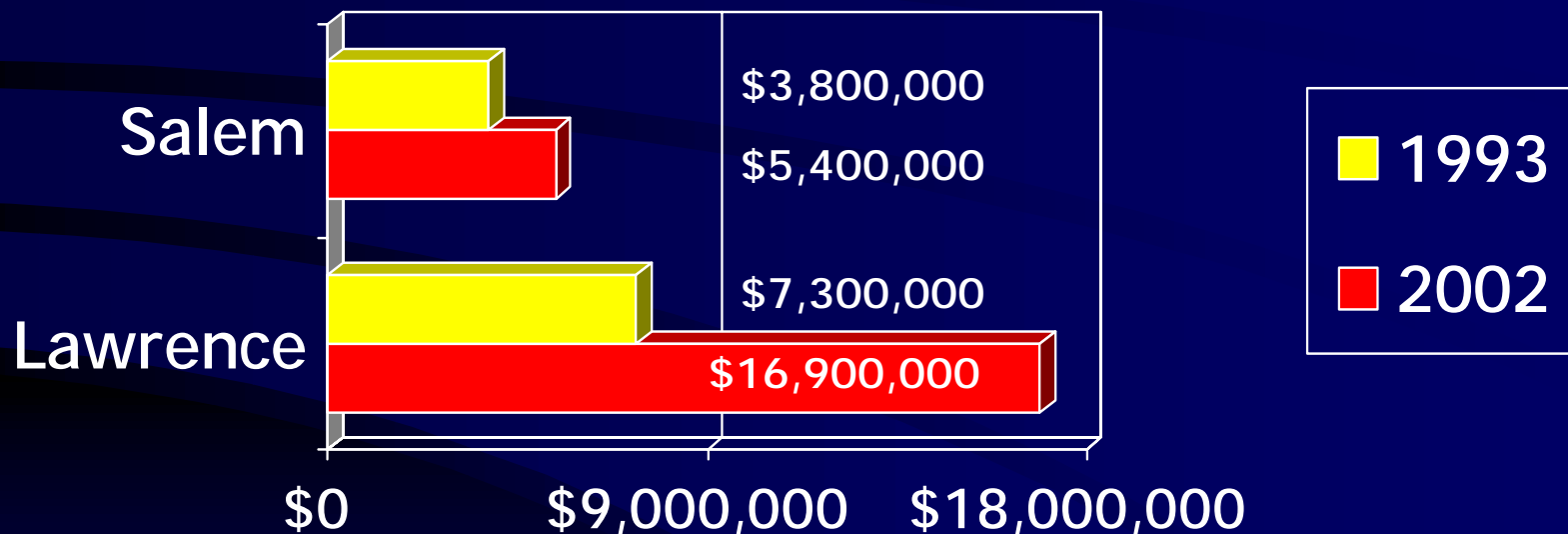
Cars Insured



- Insured population relatively similar in size for both towns

Compare 2 Cities- Claims Very Different

Dollar Amount of BI Claims



- **Claims have soared in Lawrence while only increasing slightly in Salem**

ROOT CAUSES OF HIGH RATES

- DISPROPORTIONATE # OF
INJURIES TO ACCIDENTS
- NETWORK OF HIGH VOLUME
MEDICAL AND LEGAL
PROFESSIONALS AGGRESSIVELY
READY TO ASSIST IN FILING YOUR
INSURANCE CLAIM!

LAWRENCE BACK & NECK

QUIROPRACTICO/ QUIROPRACTICO/ QUIROPRACTICO

SPRING PROMOTION 2001

Dear Friend,

While treating at our office, you were able to see first hand just how effective the care provided at our office is, how concerned we are with making you feel better, how kind and courteous our doctors and entire staff were, but most of all, we hope you were comfortable when you treated at our office and from the large number of patient referrals, we are sure your experience was a positive one at *Lawrence Back & Neck, the #1 Chiropractic Office in Lawrence.*

Lawrence Back & Neck, the number one Chiropractor in Lawrence since 1995, has successfully treated thousands of your friends, family and neighbors for injuries sustained through automobile accidents. You have made our office the number one choice for so long, we have decided to say thank you for your continued support.

Effective immediately, each time you refer a patient injured in an automobile accident, or work related injury, **"WE WILL PRESENT YOU WITH A VOUCHER WORTH \$200 (TWO HUNDRED)"**. Simply call our office with the names of your friends, family members or co-workers, make the appointment with one of our office staff and this FANTASTIC GIFT CAN BE YOURS.

Lawrence Back & Neck:

- 1) Chiropractic, physical rehabilitation, massage therapy
- 2) Treated 10,000 people injured in automobile accidents
- 3) Spanish speaking doctors
- 4) Free transportation
- 5) Call now for an appointment

Thank you for your support.

(200) _____ (200)
* (YOUR NAME HERE)
AUTHORIZED SIGNATURE REQUIRED
ONE HUNDRED & FIFTY DOLLAR NON-NEGOTIABLE VOUCHER
(200) _____ (200)*

LAWRENCE BACK & NECK

QUIROPRACTICO/ QUIROPRACTICO/ QUIROPRACTICO

333 Essex Street Lawrence MA 01840 Tel. (978) 683-0700 Fax. (978) 683-5900

LAWRENCE BACK & NECK
QUIROPRACTICO/ QUIROPRACTICO/ QUIROPRACTICO

SPRING PROMOTION 2001

Dear Friend,

While waiting at our office, you were able to see first hand just how effective the care provided at our office is, how concerned we are with making you feel better, how kind and courteous our doctors and entire staff were, but most of all, we hope you were comfortable when you treated at our office and from the large number of patients' feedback, we are sure your experience was a positive one at Lawrence Back & Neck, the #1 Chiropractic Office in Lawrence.

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Effective immediately, each time you refer a patient injured in an automobile accident, or work related injury, **WE WILL PRESENT YOU WITH A FIFTY DOLLAR NON-NEGOTIABLE VOUCHER.** Simply call our office with the names of your friends, family members or co-workers, make the appointment with one of our office staff and this FANTASTIC GIFT CAN BE YOURS.

Lawrence Back & Neck:

- 1) Chiropractic, physical, nutritional, massage therapy
- 2) Treated 18,000 people injured in automobile accidents
- 3) Speech speaking devices
- 4) Free consultations
- 5) Call now for an appointment

Thank you for your support.

(YOUR NAME HERE) (1201)

AUTHORIZED SIGNATURE REQUIRED
ONE HUNDRED & FIFTY DOLLAR NON-NEGOTIABLE VOUCHER
(1201) (1200)*

LAWRENCE BACK & NECK
QUIROPRACTICO/ QUIROPRACTICO/ QUIROPRACTICO
117 Essex Street Lawrence MA 01840 Tel: (978) 683-0700 Fax: (978) 683-2600

Spring promotion 2001

...each time you refer a patient injured in an auto accident..."WE WILL PRESENT YOU WITH A VOUCHER WORTH \$200"...

...Free transportation

...Treated 10,000 people injured in auto accidents

That's 5 new patients per day!

But Lawrence only had 7 auto accidents per day!!!

September 25, 2003

The **Lawrence Task Force** formed working with 2 major Insurance Companies launch an investigation into staged accidents in Lawrence. They hope the probe will lead to dozens of arrests and deal a body blow to a cottage industry of fraudulent personal injury claims that cost honest drivers hundreds of dollars a year in added insurance premiums.

Insurance Fraud Bureau Offers \$5,000 Reward for Tips



THE DCD DETAIL CLAIM DATABASE

**NEWEST INNOVATION
TO FIGHT FRAUD
IN MASSACHUSETTS**

**a mandatory reporting system
for all auto injury claims**

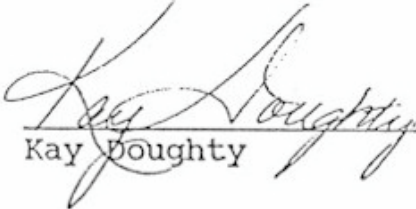
THE DETAIL CLAIM DATABASE

DCD

- Auto Injury Claims Closed Since 1/1/94
- Data: Claimant, Insured, Coverage, Injury, Claim Payment, Medical & Legal Providers, Bills,
- On-Line Access for Company Adjusters and SIU Personnel
- In accordance with ACCESS PLAN approved by Commissioner of Insurance under the Cost Containment Statute

APPROVAL AND ORDER

Acting pursuant to my authority under G.L. c. 175, §113B, G.L. c. 175A, §15, and St. 1986, c. 622, I hereby approve the Detail Claim Database, as specified in the attached AIB Working Draft 3/15/93 Detail Claim Database Information Form, and I further hereby order all insurance companies writing motor vehicle insurance in Massachusetts to report all claims closing on or after January 1, 1994 to the AIB on forms, or in a machine-readable electronic format, designed by the AIB. I further order the AIB to forthwith provide a copy of this Approval and Order to all of the AIB's member companies.



Kay Doughty

5/19/93

Date

OBJECTIVES

The Four primary objectives of the DCD are:

- Support Claim Investigation
- Assist Boards of Registration.
- Respond to Division of Insurance and the Legislative inquiries.
- Assist the Insurance Fraud Bureau in fraud investigations.

OTHER USES

As the data are developed, the DCD will provide a broad array of information including:

- Patterns of Treatment Associated with Specific Medical Providers
- Injury Patterns
- Recurrences of Provider Combinations which may lead to detection of possible professional conspiracies.

View Report



Return

Forward

Backward

Company Data

Sort Total Claim Count

Coverage Options Total

P2 - Pairings for Provider

INDUSTRY SUMMARY

Organizations - Single Billing

Rnk*	Prov ID #	Coverage	Claim Count	Total Amount Paid	Avg Total Amount Paid	MP1 or MP2 Amount Billed	MP1 or MP2 Avg Amount Billed	MP1 or MP2 PIP/Med Paid	MP1 or MP2 Avg PIP/Med Paid	Percent PIP/Med LT \$2k
	351208	BI	476	2,755,002	5,788	1,643,397	3,453			
		PIP/Med	670	2,185,834	3,262	1,879,905	2,806	1,532,302	2,287	21%
		U-1	66	258,973	3,924	215,714	3,268			
		U-2								
==>		Total	1212	5,199,809	4,290	3,739,016	3,085	1,532,302	2,287	21%
1	855202	Total	161	582,210	3,616	551,770	3,427	266,691	2,721	19%
2	850171	Total	153	784,886	5,130	590,347	3,858	159,883	3,075	12%
3	851395	Total	102	521,099	5,109	392,607	3,849	134,551	2,925	17%
4	856117	Total	80	360,952	4,512	286,648	3,583	95,201	2,644	17%
5	517114	Total	48	161,131	3,357	31,439	655	17,376	470	30%
6	513960	Total	43	138,440	3,220	27,605	642	12,405	428	28%
7	855148	Total	38	178,557	4,699	156,446	4,117	53,264	3,329	

*Click Rnk number for Injury Type Distribution

DCD Results

- Troubling data may point to solutions...

Injury Prone Locations?

- Since 1996...
 - 20 injury claims
 - From 17 accidents
 - Involving 16 people
 - From this address on Park Street



Injury Prone Locations?

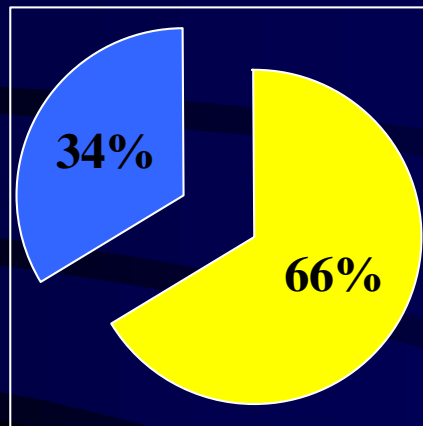
- Since 1996...
 - 25 injury claims
 - From 16 accidents
 - Involving 18 people
 - From this address on Spruce Street



Comparison of Provider Billing

**Statewide PIP
Total Billed**

**Chiropractors
\$119 million**

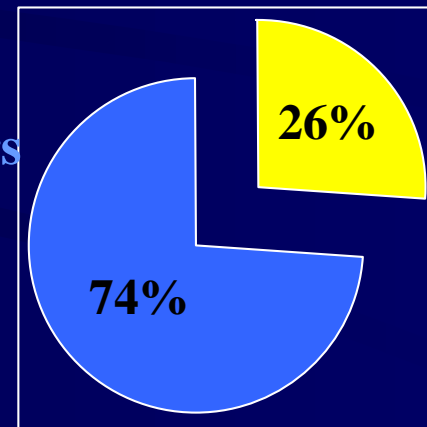


**All Providers
\$347 million**

■ **Other Providers**
■ **Chiropractors**

**Lawrence PIP
Total Billed**

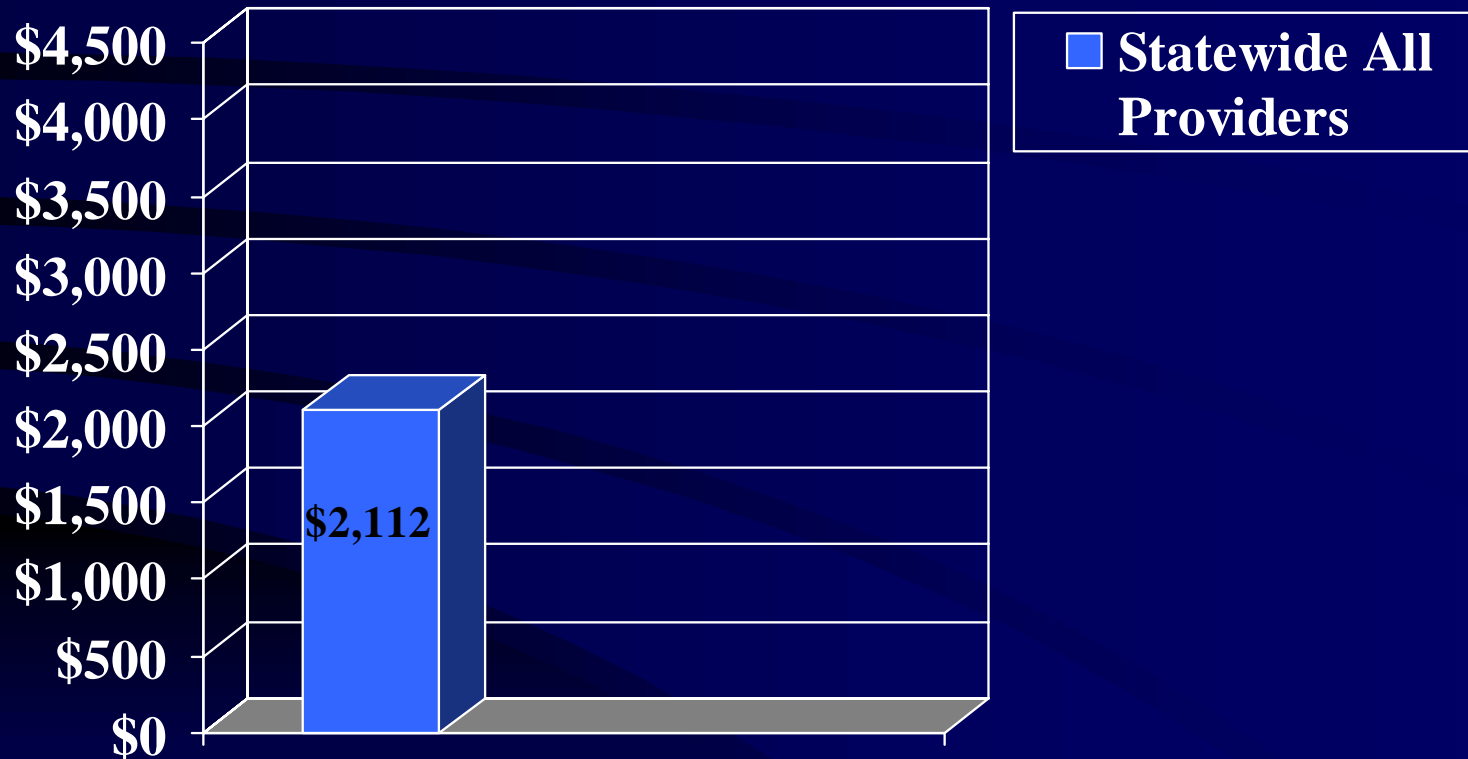
**Chiropractors
\$10 million**



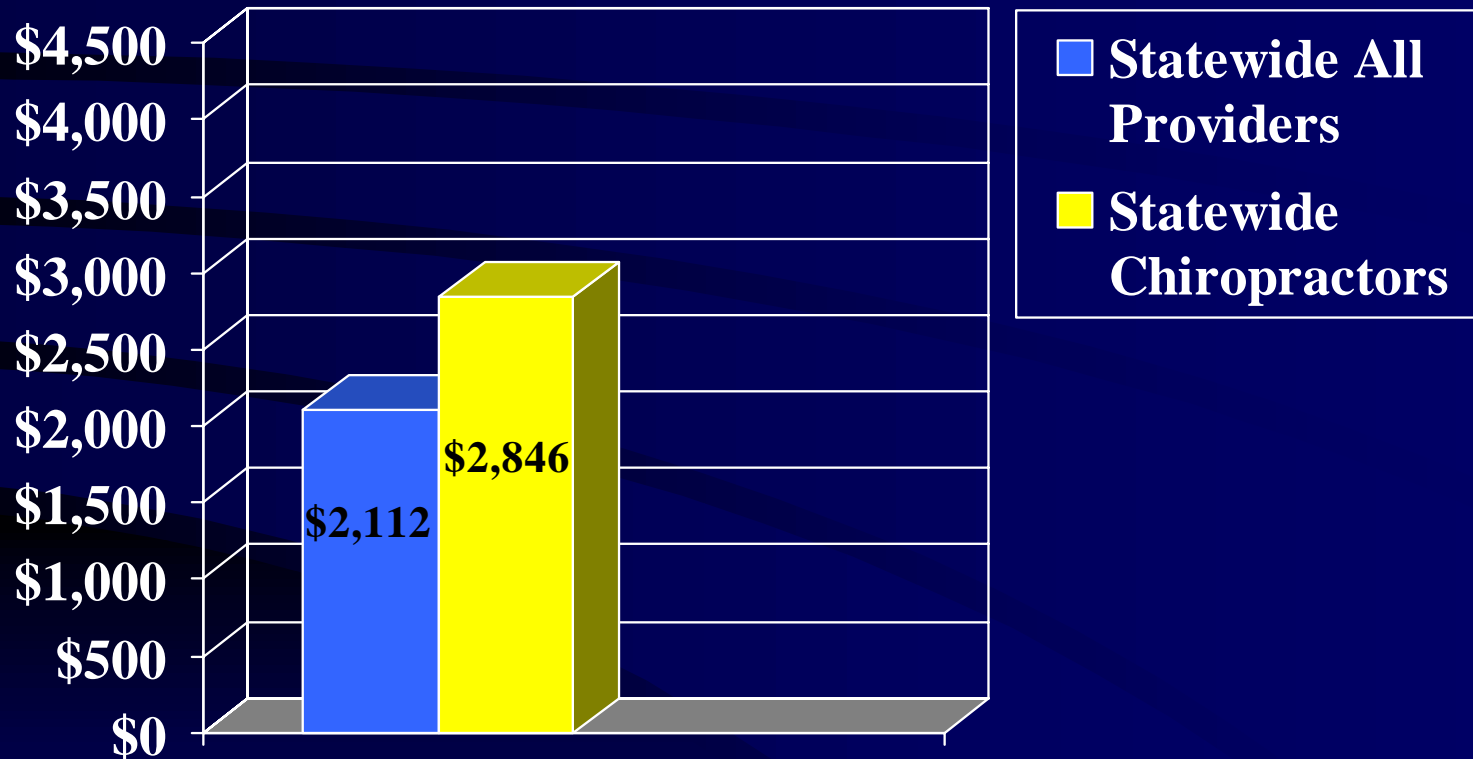
**All Providers
\$14 million**

■ **Other Providers**
■ **Chiropractors**

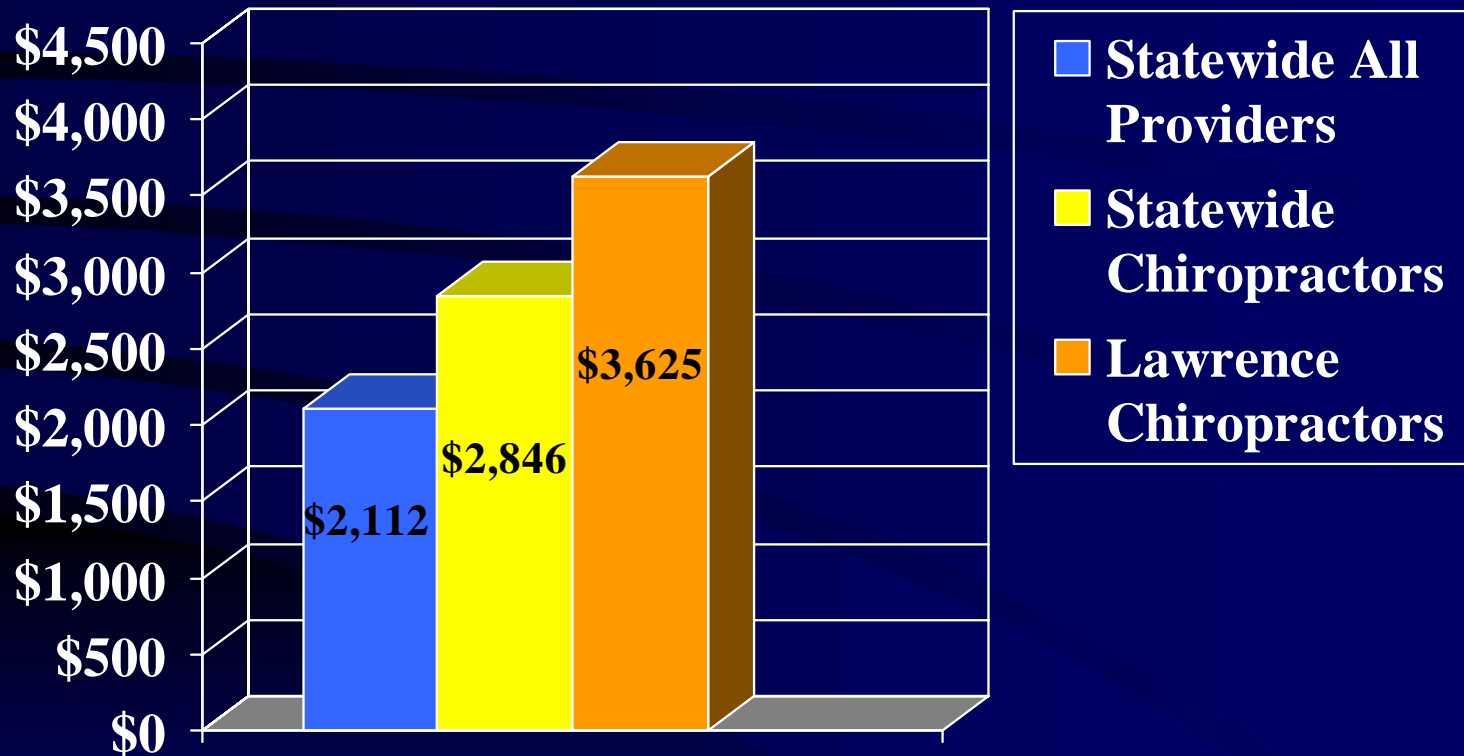
PIP Average Amount Billed



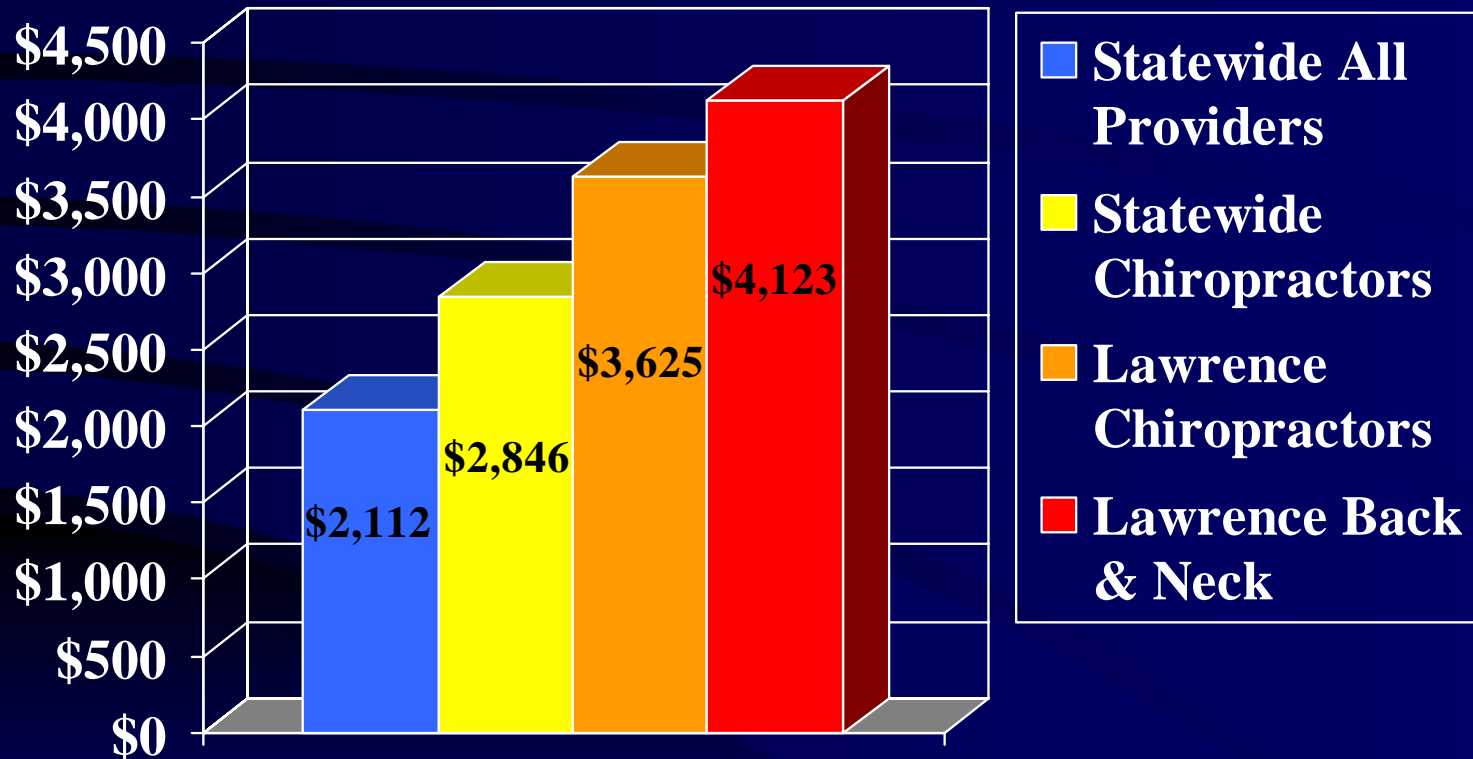
PIP Average Amount Billed



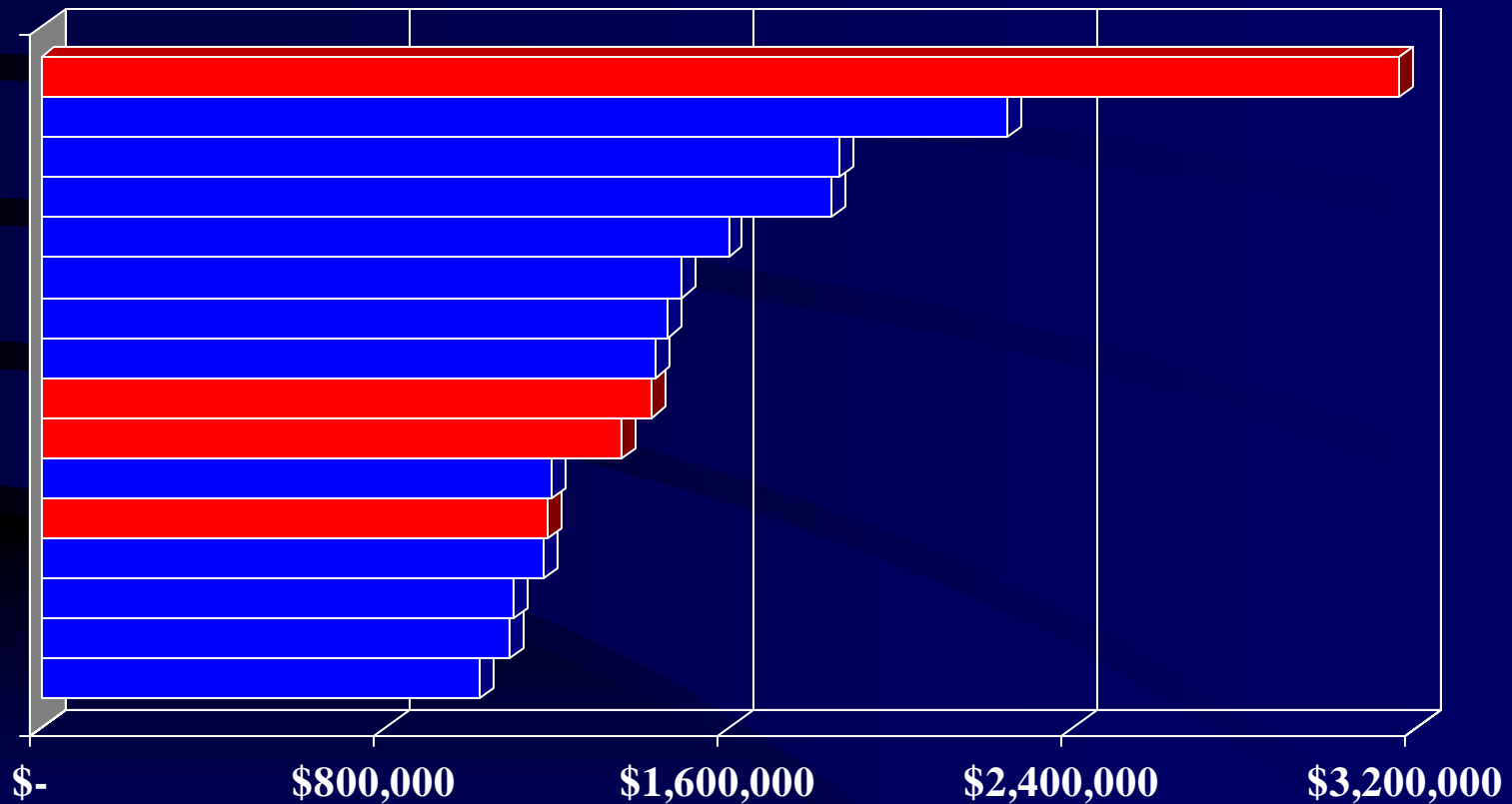
PIP Average Amount Billed



PIP Average Amount Billed

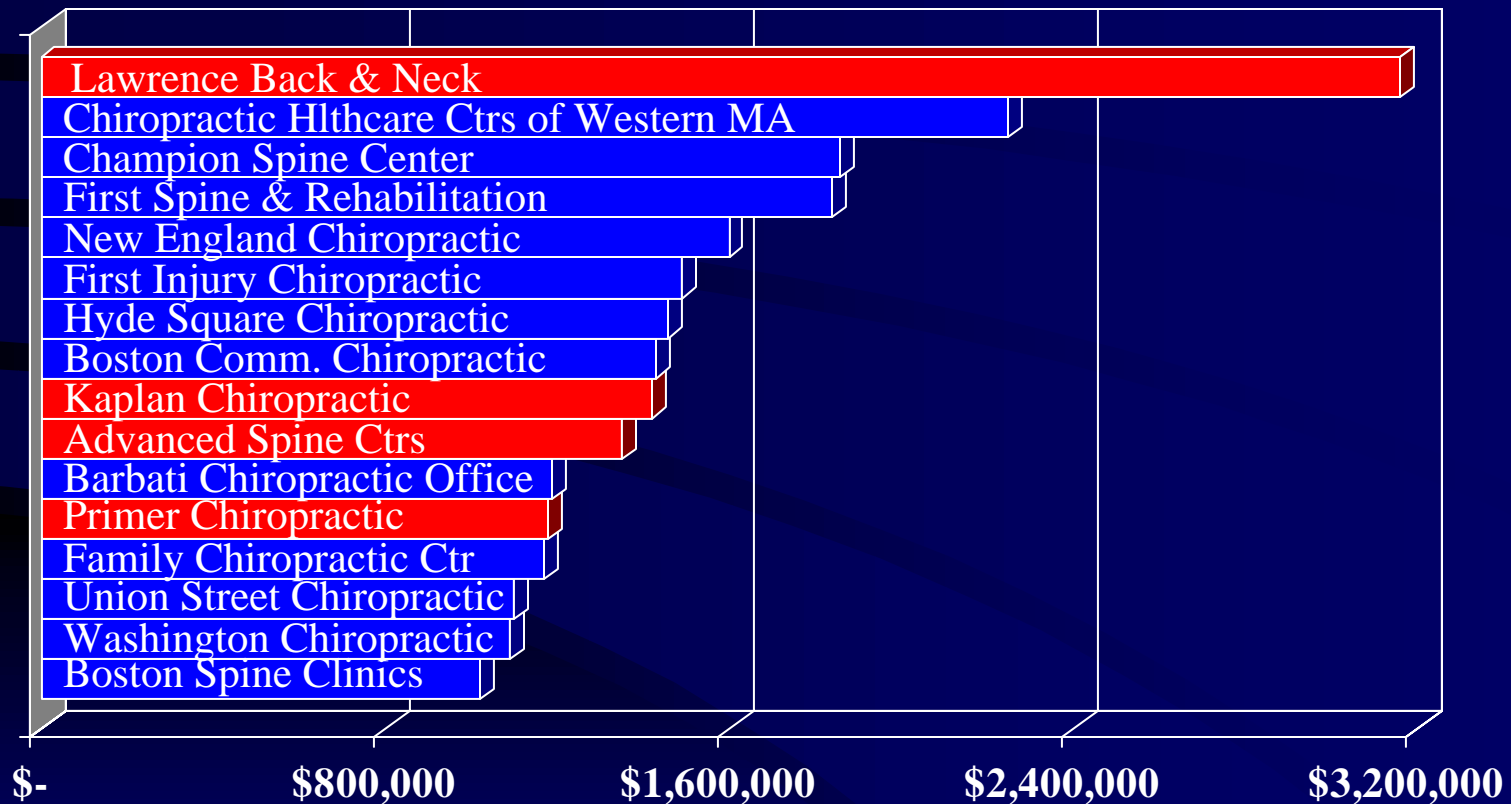


Chiropractor Organizations with PIP Total Billing Over \$1 million



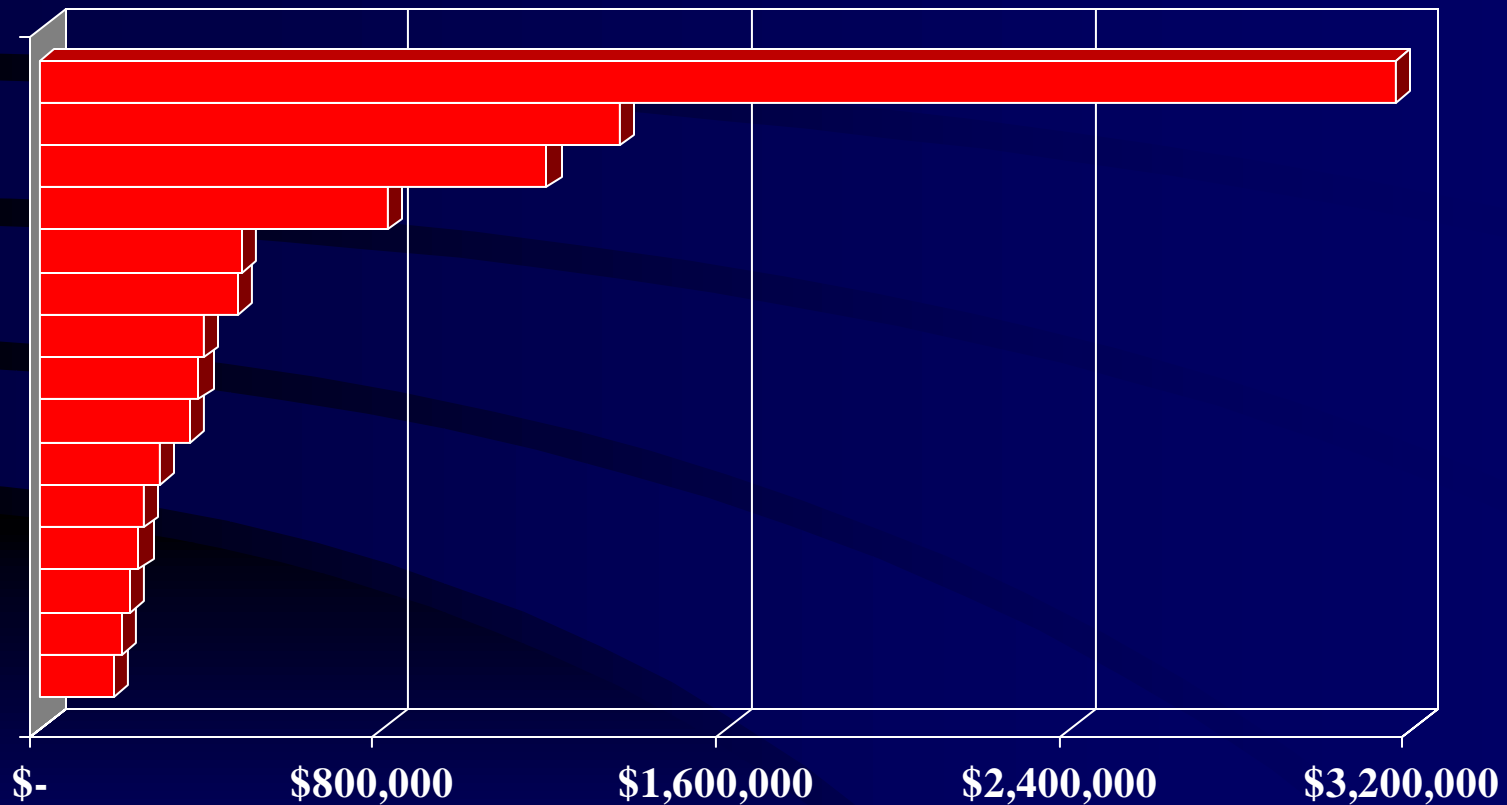
Chiropractor Organizations serving Lawrence shown in red.

Chiropractor Organizations with PIP Total Billing Over \$1 million



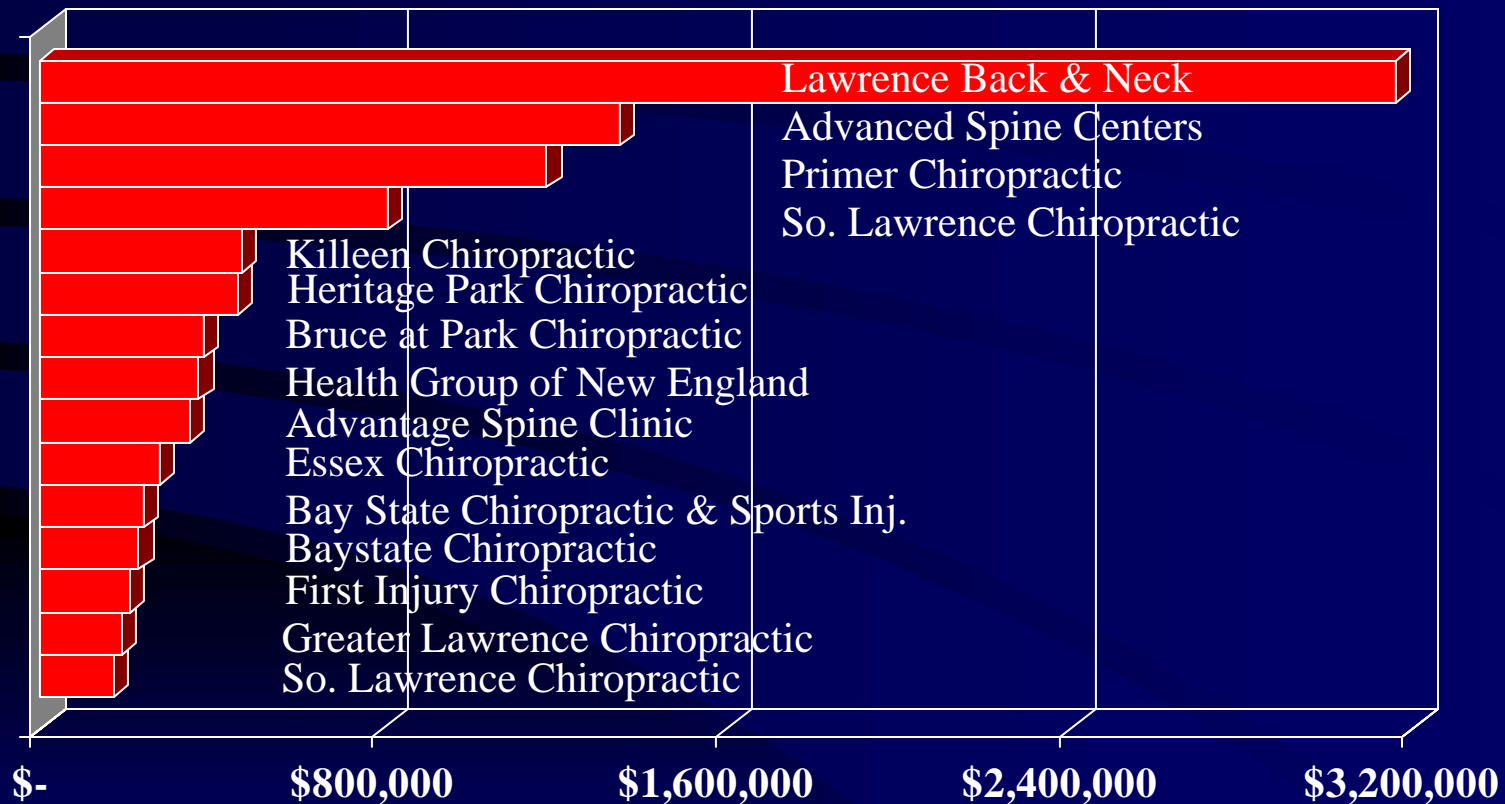
Chiropractor Organizations serving Lawrence shown in red.

Top 10 Lawrence Chiropractor Organizations PIP Total Billing



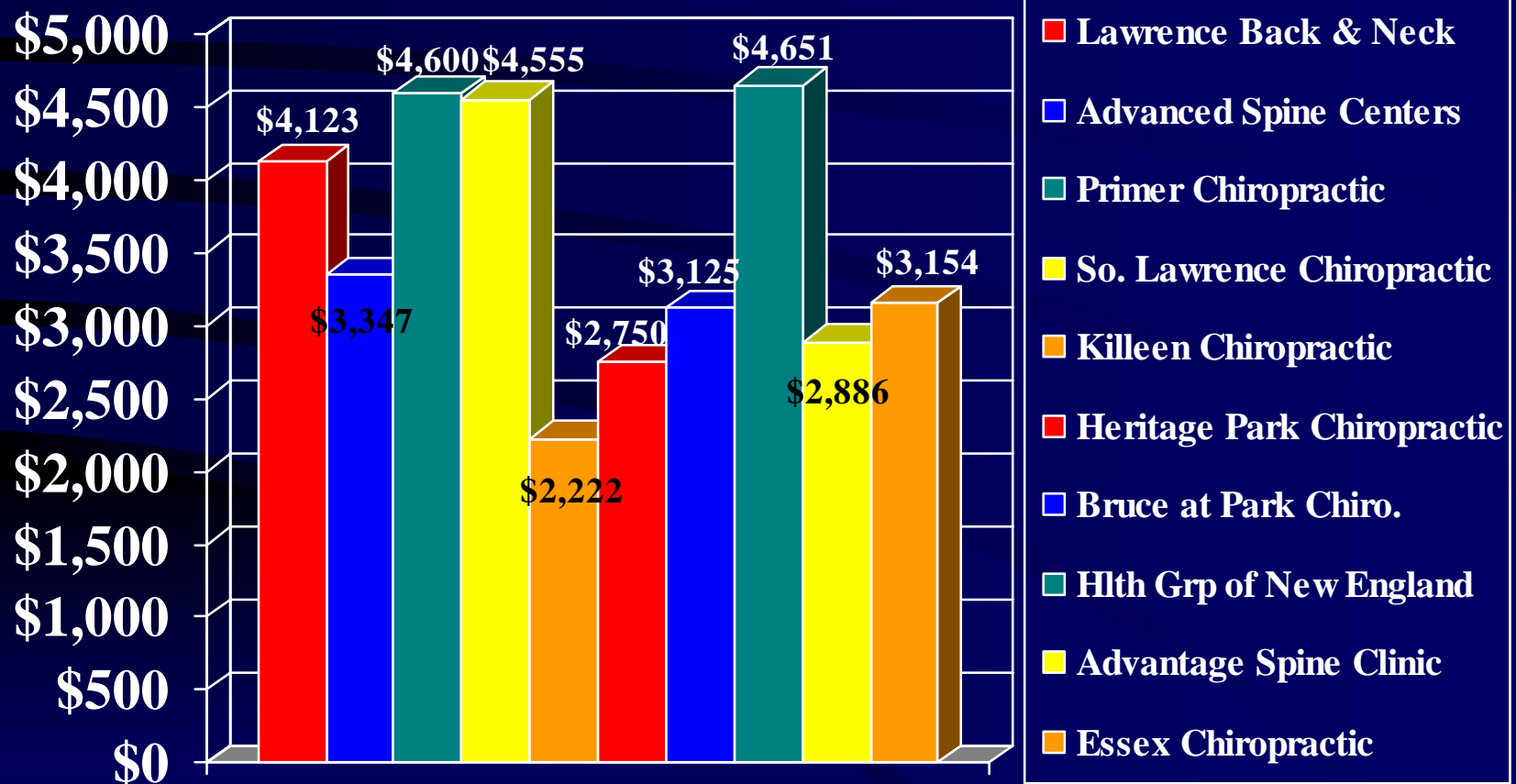
Chiropractor Organizations serving Lawrence shown in red.

Top 10 Lawrence Chiropractor Organizations PIP Total Billing



Chiropractor Organizations serving Lawrence shown in red.

Top 10 Lawrence Chiropractor Organizations PIP Average Amount Billed



Fraud Bureau Hot Line for Consumers

1 800 32-FRAUD

Massachusetts Attorney General's: Insurance & Unemployment Division

Attorney Green

Combating Fraud: Solutions

Office of the Attorney General

OAG Approach to Insurance Fraud

- Fraud Prevention
- General Deterrence

Combating Fraud: Solutions

Legal issues

- Statutes
 - False Health Care Claims: (c) 175H
 - General Insurance Fraud: (c) 266 (s) 111a
 - Motor Vehicle Insurance Fraud: (c) 266 (s) 111b
- Larceny (c) 266 (s) 30

Practice Tools

Massachusetts Division of Professional Licensure

Attorney Weber

Combating Fraud: Solutions

Avoiding Professional Discipline

Prosecution Process

Legislative Proposals:

- Senate Bill # 170:

Criminalize the act of paying remuneration to another for the purposes of procuring a patient/client for a healthcare provider

- House Bill # 1689:

Creation of a Health Care Task Force supported by improved statistical info. and monetary resources

Combating Fraud: Solutions

- House Bill # 25:

Provide greater consumer protection powers to DPL Boards by enabling for the issuance of fines, summary suspensions, and/or public service for providers who have violated the rules

- Proposal to license chiropractic facilities:

Would provide greater consumer protection powers to BoR for regulating conduct on an institutional level

Massachusetts State Senate
Senator Tucker

Massachusetts House of
Representatives
Representative Finegold

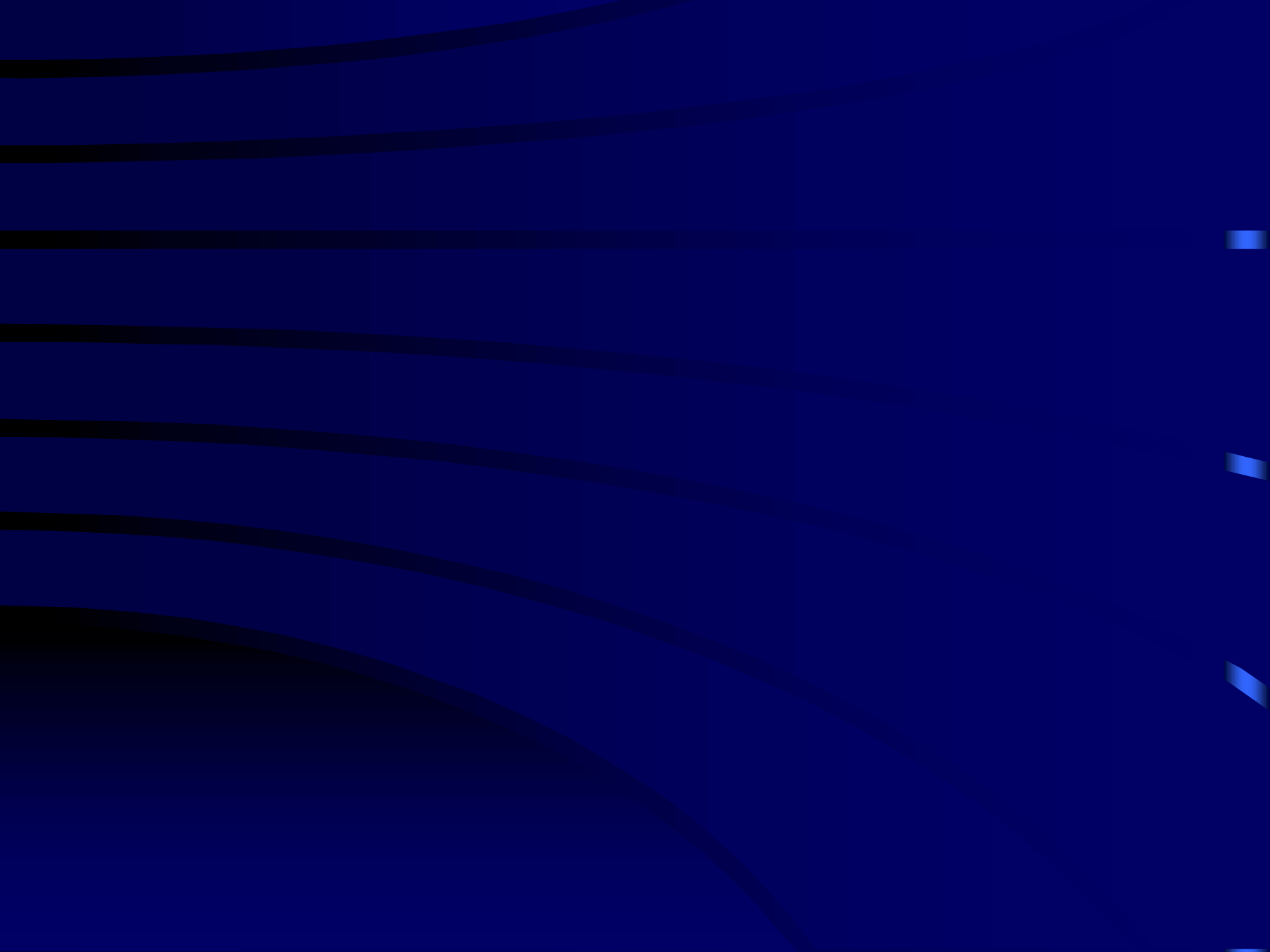
Open Discussion/ Public Comment

Future Action Plan

For additional information:

MA Board of Registration. of Chiropractors
239 Causeway St.
Boston, MA 02114

www.mass.gov/reg/boards/ch
(617) 727-3093 or 3033



MA Board of Registration of Chiropractors

New licentiate Presentation

12:20pm

New licentiate Presentation

Educational goals:

- Instill duty, responsibility and professionalism
- Proactive (preventative) approach
- Highlight vital clinical practice issues
- Discuss patient sensitivity issues
- Explain renewal requirements
- Enlightenment about associate positions

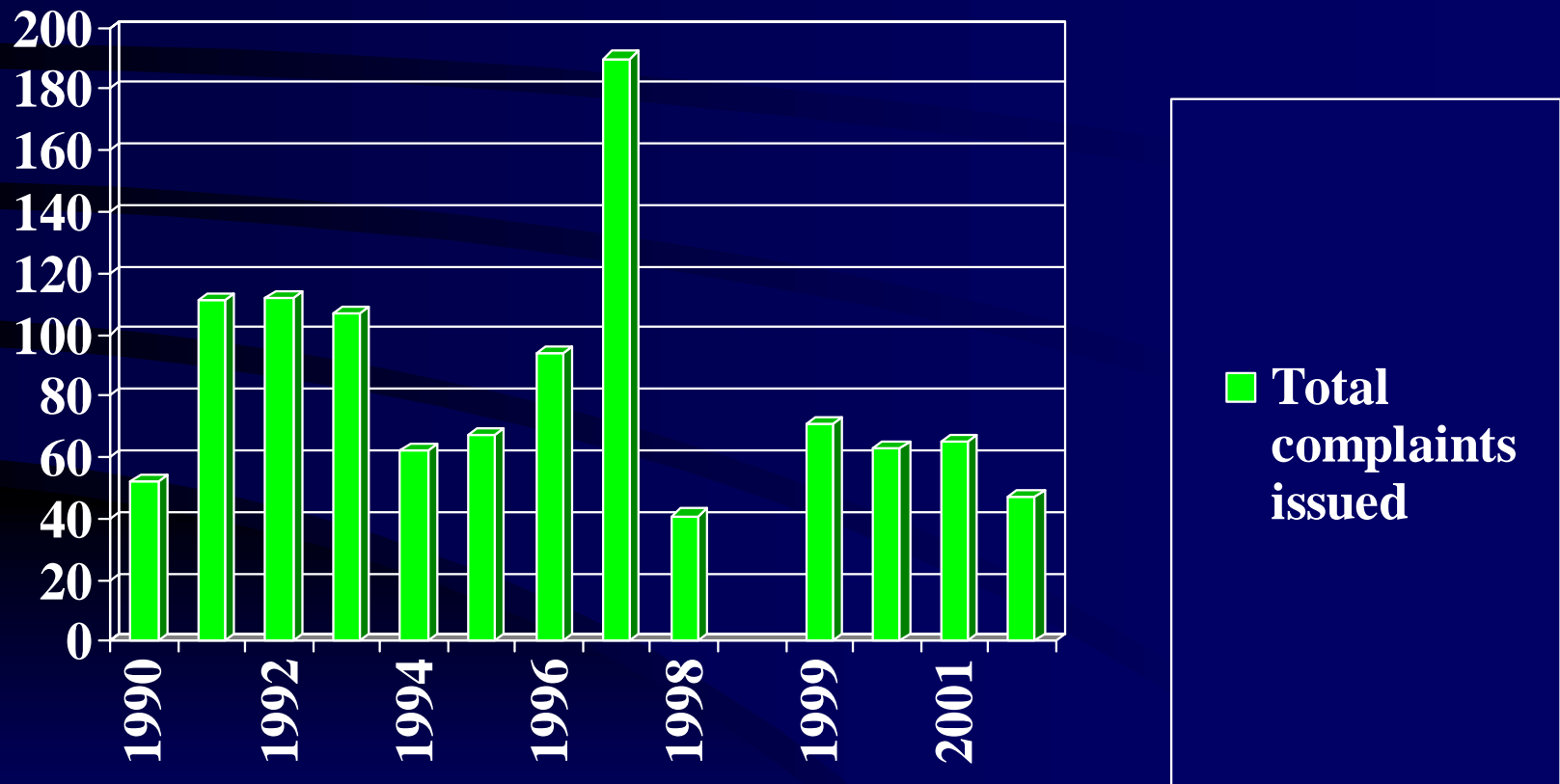
Practice Compliance and Recordkeeping Seminar

Educational goals:

- Review state laws, rules and regulations
- Outline basic clinical practice issues
 - Clinical recordkeeping procedures
 - Federal recordkeeping issues
 - Outcome measures
 - Insurance/ coding issues
- Promote practice compliance planning

Results:

Complaint history 1990-2002



Complaint history for newly licensed doctors

Year licensed	# complaints issued through 2003
1995	21
1996	33
1997 (initial* program)	9
1998	3
(formal program started)	
1999	0
2000	15
2001	4
2002	0

Results:

new doctors, time in practice

1995-1998

1999-2002

Doctors: 393

Months practice: 120

Complaints: 66

Doctors: 464

Months practice: 114

Anticipated complaints:

74

Results:

Anticipated vs. Actual Complaints

1995-1998

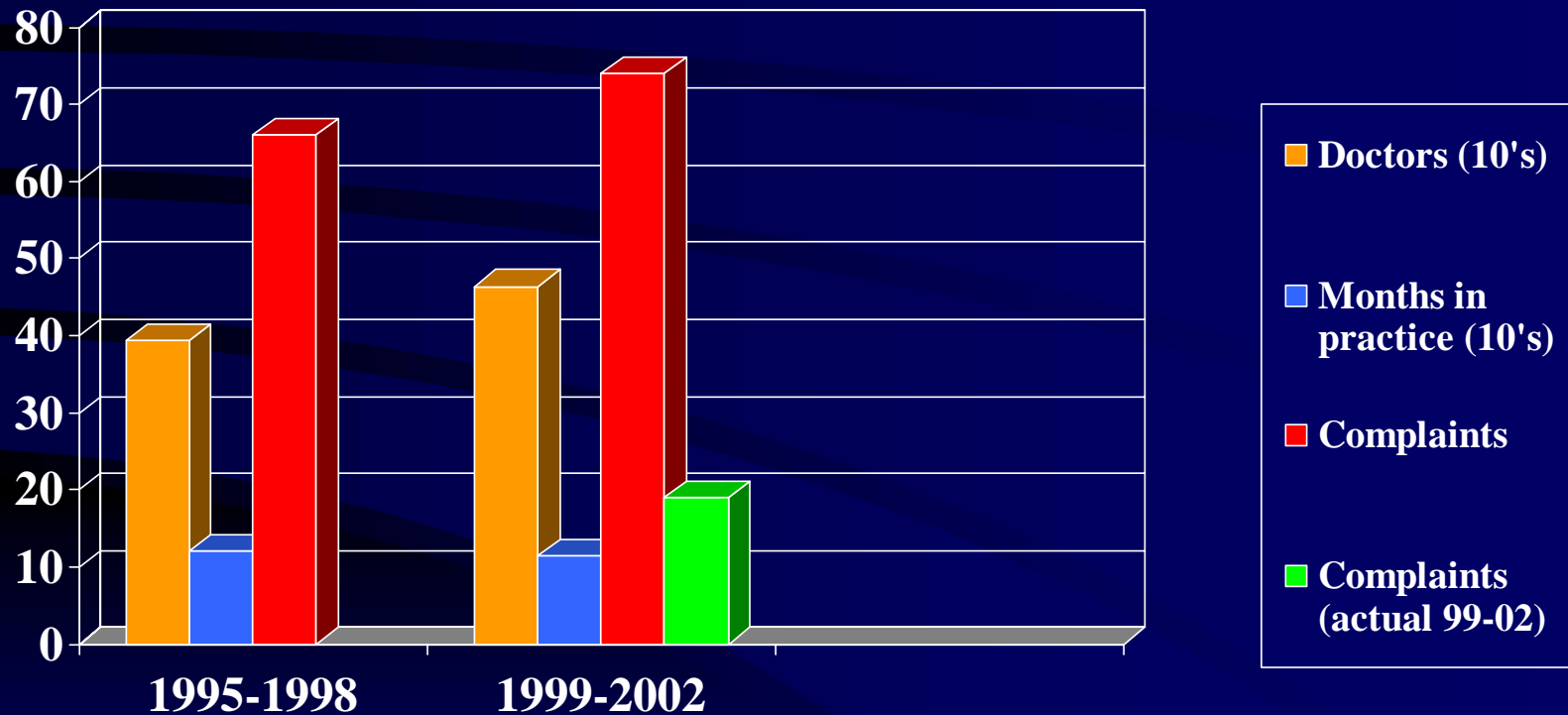
Doctors:	393
Months practice:	120
Complaints:	66

1999-2002

Doctors:	464
Months practice:	114
Anticipated complaints:	74

Actual Complaints: 19

Results: New Licentiate Program



Results: New Licentiate Program

- Since implementing our New Licentiate Program, there has been a **74.4%** reduction in complaints lodged against our new doctors compared to the statistically expected norm!

Massachusetts Board of Registration of Chiropractors

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Commonwealth of Massachusetts
Division of Professional Licensure
239 Causeway Street • Boston, Massachusetts 02114

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

BETH LINDSTROM
DIRECTOR, OFFICE OF
CONSUMER AFFAIRS AND
BUSINESS REGULATION

Anne L. Collins
DIRECTOR, DIVISION OF
PROFESSIONAL LICENSURE

BOARD OF REGISTRATION OF CHIROPRACTORS

Presentation to Candidates

Massachusetts law and the regulations governing chiropractic practice serve as minimal standards that must be followed. You must act professionally and ethically at all times. The Board has the responsibility to protect the rights and safety of the public--the consumers of your services. Licensure is a privilege; abuse of this privilege will not be tolerated. Keep abreast of any updated changes to the rules and regulations. If you have a specific question, please feel free to call any Board member at our own offices.

Remember the health and welfare of others is directly dependent on you!

Members of the Board: Edward J. Barowsky, D.C. (Chairman), Thomas R. DeVita, D.C. (Vice Chair.), Wayne A. Comeau, D.C. (Secretary), Joseph M. Boyle, D.C. (Member), David N. Taylor, D.C. (Member), Kirk J. Shilts, D.C. (Member), Lisa A. Grant, Esq. (Public Member)

Board Administrative Assistant: Mr. Michael J. Power (617) 727-3084, Fax: 727-2669, or
Email: Michael.J.Power@state.ma.us

Board Executive Director: Elizabeth J. Lindberg, MS, RN (617) 727-3033, Elizabeth.J.Lindberg@state.ma.us

Web Address for Chiropractors: <http://www.state.ma.us/reg/boards/ch>

Associate Positions:

- ♦ Check out the reputation of the owner/doctor with whom you are contemplating an associateship.
- ♦ Does he or she have a valid license? Are there any past or outstanding complaints against him or her?
- ♦ For inquiries and reporting call the State Investigations Unit: (617) 727-7406 [2:00-5:00 p.m.]
- ♦ The treating doctor is responsible for everything billed under their name for all services they rendered.
- ♦ The treating doctor is responsible for the total care and follow-up of each patient that he or she has treated.
- ♦ Interview the practice's compliance officer about the job description that would be expected of you.
- ♦ There is no respondent superior, the buck stops with you!
- ♦ If you suspect fraud, confront the compliance officer + owner/doctor. Report any and all fraud and abuse to the Board. Your license to continue to practice depends on it.

Practice Compliance:

- ♦ Establish a mechanism to address the complaints and discrepancies that will arise within your practice.
- ♦ A quality compliance program can minimize billing, coding and documentation errors that could reduce your risk of potential adverse penalties being brought against you.
- ♦ Designate a **Compliance Officer** for your practice to oversee compliance efforts.
 - ♦ Select an honest, competent and thoroughly trained individual.
- ♦ Establish written standards/procedures for your office which address:
 - [1] Office administration and operations procedures and policies,
 - [2] Record keeping policies,
 - [3] Billing, coding and payment issues,
 - [4] Clinical practice resource manuals (MA + federal laws, Rules + Reg's, clinical care guidelines, etc)
- ♦ Conduct periodic audits to evaluate, improve and adapt your compliance efforts.
- ♦ Hire, train, support and discipline your office staff so that they adhere to compliant behavior.
 - ♦ Respond to problems through timely and appropriate corrective actions.